AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

(1) Retail sales of:

(a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and

(b) Digital property regardless of whether:

1. The purchaser has the right to permanently use the property;

2. The purchaser's right to access or retain the property is not permanent; or

3. The purchaser's right of use is conditioned upon continued payment; and

(2) The furnishing of the following services:

(a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;

(b) Sewer services;

(c) The sale of admissions, except:

1. Admissions to enter the grounds or enclosure of any track licensed under KRS Chapter 230 at which live horse racing or historical horse racing is being conducted under the jurisdiction of the Kentucky Horse Racing and Gaming Corporation;

2. Admissions taxed under KRS 229.031;
3. Admissions that are charged by nonprofit educational, charitable, or religious institutions and for which an exemption is provided under KRS 139.495; and
4. Admissions that are charged by nonprofit civic, governmental, or other nonprofit organizations and for which an exemption is provided under KRS 139.498;

(d) Prepaid calling service and prepaid wireless calling service;

(e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;

(f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:

1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or
2. To a seller or reseller of natural gas;

(g) Landscaping services, including but not limited to:

1. Lawn care and maintenance services;
2. Tree trimming, pruning, or removal services;
3. Landscape design and installation services;
4. Landscape care and maintenance services; and
5. Snow plowing or removal services;

(h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;

(i) Small animal veterinary services, excluding veterinary services for equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;

(j) Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;

(k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;

(l) Non-coin-operated laundry and dry cleaning services;

(m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;

(n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;

(o) Non-medical diet and weight reducing services;

(p) Extended warranty services;

(q) Photography and photofinishing services;

(r) Telemarketing services;

(s) Public opinion and research polling services;

(t) Lobbying services;

(u) Executive employee recruitment services;

(v) Website design and development services;

(w) Website hosting services;

(x) Facsimile transmission services;

(y) Private mailroom services, including:

1. Presorting mail and packages by postal code;
2. Address barcoding;
3. Tracking;
4. Delivery to postal service; and
5. Private mailbox rentals;

(z) Bodyguard services;

(aa) Residential and nonresidential security system monitoring services, excluding separately stated onsite security guard services;

(ab) Private investigation services;

(ac) Process server services;

(ad) Repossession of tangible personal property services;

(ae) Personal background check services;

(af) Parking services;

1. Including:

a. Valet services; and

b. The use of parking lots and parking structures; but

2. Excluding any parking services at an educational institution;

(ag) Road and travel services provided by automobile clubs as defined in KRS 281.010;

(ah) Condominium time-share exchange services;

(ai) Rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events;

(aj) Social event planning and coordination services;

(ak) ~~[Leisure, recreational, and athletic instructional services;~~

~~(al) Recreational camp tuition and fees;~~

~~(am)]~~Personal fitness training services;

(al)~~[(an)]~~ Massage services, except when medically necessary;

(am)~~[(ao)]~~ Cosmetic surgery services;

(an)~~[(ap)]~~ Body modification services, including tattooing, piercing, scarification, branding, tongue splitting, transdermal and subdermal implants, ear pointing, teeth pointing, and any other modifications that are not necessary for medical or dental health;

(ao)[~~(aq)~~] Laboratory testing services, excluding laboratory testing:

1. For medical, educational, or veterinary reasons; or
2. Required by a federal, state, or local statute, regulation, court order, or other government-related requirement;

(ap)[~~(ar)~~] Interior decorating and design services;

(aq)[~~(as)~~] Household moving services;

(ar)[~~(at)~~] Specialized design services, including the design of clothing, costumes, fashion, furs, jewelry, shoes, textiles, and lighting;

(as)[~~(au)~~] Lapidary services, including cutting, polishing, and engraving precious stones;

(at)[~~(av)~~] Labor and services to repair or maintain commercial refrigeration equipment and systems when no tangible personal property is sold in that transaction including service calls and trip charges;

(au)[~~(aw)~~] Labor to repair or alter apparel, footwear, watches, or jewelry when no tangible personal property is sold in that transaction; and

(av)[~~(ax)~~] Prewritten computer software access services.

➔Section 2. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and

transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.

(b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.

(c) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.

(d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:

1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;

2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;

3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;

4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and

5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided the sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be

used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery":

(a) Means machinery used exclusively and directly in the occupation of:

1. Tilling the soil for the production of crops as a business;

2. Raising and feeding livestock or poultry for sale; or

3. Producing milk for sale;

(b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and

(c) Does not include:

1. Automobiles;

2. Trucks;

3. Trailers, except combine header trailers; or

4. Truck-trailer combinations;

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments,

repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

(a) Operate farm machinery as defined in subsection (11) of this section;

(b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;

(c) Operate on-farm poultry or livestock facilities ***as*** defined in subsection (14) of this section;

(d) Operate on-farm ratite facilities ***as*** defined in subsection (23) of this section;

(e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or

(f) Operate on-farm dairy facilities;

(16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student

aids;

(17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(20) (a) 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and

2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.

(b) The exemptions provided in this subsection shall be effective for sales made:

1. On and after July 1, 2018; and

2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;

(21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(22) Machinery or equipment purchased or leased by a business, industry, or

organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(26) Baling twine and baling wire for the baling of hay and straw;

(27) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

(28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

(c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter; and

(b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation.

(c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes;

(32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy;

(33) Drugs and over-the-counter drugs, as defined in KRS 139.472, that are purchased by a person regularly engaged in the business of farming and used in the treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, or cervids;

(34) (a) Building materials, fixtures, or supplies purchased by a construction contractor if:

1. Fulfilled by a construction contract for a sewer or water project with:

a. A municipally owned water utility organized under KRS Chapter 96;

b. A water district or water commission formed or organized under KRS Chapter 74;

c. A sanitation district established under KRS Chapter 220 or formed pursuant to KRS Chapter 65;

d. A nonprofit corporation created under KRS 58.180 to act on behalf of a governmental agency in the acquisition and financing of public projects;

e. Regional wastewater commissions formed under KRS Chapter 278;

f. A municipally owned joint sewer agency formed under KRS Chapter 76; or

g. Any other governmental agency; and

2. The building materials, fixtures, or supplies:

a. Will be permanently incorporated into a structure or improvement to real property, or will be completely consumed, in fulfilling a construction contract for the purpose of furnishing water or sewer services to the general public; and

b. Would be exempt if purchased directly by the entities listed in subparagraph 1. of this paragraph.

(b) As used in this subsection, "construction contract" means a:

1. Lump sum contract;

2. Cost plus contract;

3. Materials only contract;

4. Labor and materials contract; or

5. Any other type of contract.

(c) The exemption provided in this subsection shall apply without regard to the payment arrangement between the construction contractor, the retailer, and the entities listed in paragraph (a)1. of this subsection or to the place of delivery for the building materials, fixtures, or supplies;

(35) (a) On or after February 25, 2022, the rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events, as referenced in KRS 139.200, if the tax established in KRS 139.200 is paid by the primary lessee to the lessor.

(b) For the purpose of this subsection, "primary lessee" means the person who leases the space and who has a contract with the lessor of the space only if:

1. The contract between the lessor and the lessee specifies that the lessee may sublease, subrent, or otherwise sell the space; and

2. The space is then sublet, subrented, or otherwise sold to exhibitors, vendors, sponsors, or other entities and persons who will use the space associated with the event to be conducted under the primary lease;

(36) Prewritten computer software access services sold to or purchased by a retailer that develops prewritten computer software for print technology and uses and sells prewritten computer software access services for print technology;

(37) (a) Currency or bullion.

(b) As used in this subsection:

1. "Bullion":

a. Means bars, ingots, or coins, which are:

i. Made of gold, silver, platinum, palladium, or a combination of these metals;

ii. Valued based on the content of the metal and not its form; and

iii. Used, or have been used, as a medium of exchange, security, or commodity by any state, the United States government, or a foreign nation; and

b. Does not include medallions or coins that are incorporated into a pendant or other jewelry; and

2. "Currency":

a. Means a coin or currency made of gold, silver, platinum, palladium, or other metal or paper money that is or has been used as legal tender and is sold based on its value as a collectible item rather than the value as a medium of exchange; and

b. Does not include a coin or currency that has been incorporated into jewelry;~~[and]~~

(38) Medicinal cannabis as defined in KRS 218B.010 when sold, used, stored, or consumed in accordance with KRS Chapter 218B***; and***

(39) Electricity used exclusively and directly to operate:

(a) On-farm grain or soybean drying facilities as defined in subsection (13) of this section;

(b) On-farm poultry or livestock facilities as defined in subsection (14) of this section;

(c) On-farm ratite facilities as defined in subsection (23) of this section;

(d) On-farm llama or alpaca facilities as defined in subsection (25) of this section;

(e) On-farm buffalo facilities as defined in subsection (28) of this section;

(f) On-farm aquatic organism facilities as defined in subsection (29) of this section;

(g) On-farm dairy facilities;

(h) Irrigation systems used in the production of crops by a person regularly engaged in the business of farming; or

(i) Barns or other structures used to store crops or maintain equipment by a person regularly engaged in the business of farming.

➔Section 3. KRS 139.010 is amended to read as follows:

As used in this chapter, unless the context otherwise provides:

(1) (a) "Admissions" means the fees paid for:

1. The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and

2. The privilege of using facilities or participating in an event or activity, including but not limited to:

a. Bowling centers;

b. Skating rinks;

c. Health spas;

d. Swimming pools;

e. Tennis courts;

f. Weight training facilities;

g. Fitness and recreational sports centers; and

h. Golf courses, both public and private;

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof.

(b) "Admissions" does not include:

1. Any fee paid to enter or participate in a fishing tournament; or

2. Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;

(2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;

(3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) (a) "Cosmetic surgery services" means modifications to all areas of the head, neck, and body to enhance appearance through surgical and medical techniques.

(b) "Cosmetic surgery services" does not include surgery services that are medically necessary to reconstruct or correct dysfunctional areas of the face and body due to birth disorders, trauma, burns, or disease;

(6) "Department" means the Department of Revenue;

(7) (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.

(b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.

(c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;

(8) (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.

(c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;

(9) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.

(b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or weblogs;

(10) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.

(b) "Digital code" shall not include a code that represents:

1. A stored monetary value that is deducted from a total as it is used by the purchaser; or

2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;

(11) (a) "Digital property" means any of the following which is transferred

electronically:

1. Digital audio works;
2. Digital books;
3. Finished artwork;
4. Digital photographs;
5. Periodicals;
6. Newspapers;
7. Magazines;
8. Video greeting cards;
9. Audio greeting cards;
10. Video games;
11. Electronic games; or
12. Any digital code related to this property.

(b) "Digital property" shall not include digital audio-visual works or satellite radio programming;

(12) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address;

(13) "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is

packaged and ready for sale;

(14) (a) "Executive employee recruitment services" means services provided by a person to locate potential candidates to fill open senior-level management positions.

(b) "Executive employee recruitment services" includes but is not limited to making a detailed list of client requirements, researching and identifying potential candidates, performing prescreening interviews, and providing contract and salary negotiations;

(15) (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property, digital property, real property, or prewritten computer software access services according to the terms of the contract.

(b) "Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in KRS 136.602 or broadband;

(16) (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.

(b) "Finished artwork" includes:

1. Assemblies;
2. Charts;
3. Designs;
4. Drawings;
5. Graphs;

6. Illustrative materials;
7. Lettering;
8. Mechanicals;
9. Paintings; and
10. Paste-ups;

(17) (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

1. The retailer's cost of the tangible personal property, digital property, or services sold;
2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
3. Charges by the retailer for any services necessary to complete the sale;
4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.

(b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:

1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
4. One (1) of the following criteria is met:
    a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
    b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
    c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.

(c) "Gross receipts" and "sales price" shall not include:

1. Discounts, including cash, term, or coupons that are not reimbursed by a

third party and that are allowed by a retailer and taken by a purchaser on a sale;

2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

4. Local alcohol regulatory license fees authorized under KRS 243.075 that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(d) As used in this subsection, "third party" means a person other than the purchaser;

(18) "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;

(19) "Industrial processing" includes:

(a) Refining;

(b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;

(c) Mining, quarrying, fabricating, and industrial assembling;

(d) The processing and packaging of raw materials, in-process materials, and finished products; and

(e) The processing and packaging of farm and dairy products for sale;

(20) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:

1. Purchase the property; or
2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).

(b) "Lease or rental" shall not include:

1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; or
3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.

(c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(21) (a) "Lobbying services" means the act of promoting or securing passage of legislation or an attempt to influence or sway a public official or other public servant toward a desired action, including but not limited to the support of or opposition to a project or the passage, amendment, defeat, approval, or veto of any legislation, regulation, rule, or ordinance;

(b) "Lobbying services" includes but is not limited to the performance of activities described as executive agency lobbying activities as defined in KRS 11A.201, activities described under the definition of lobby in KRS 6.611, and any similar activities performed at the local, state, or federal levels;

(22) (a) "Machinery for new and expanded industry" means machinery:

1. Directly used in the manufacturing or industrial processing process of:
   a. Tangible personal property at a plant facility;
   b. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
   c. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
2. Which is incorporated for the first time into:
   a. A plant facility established in this state; or
   b. Licensed premises located in this state; and
3. Which does not replace machinery in the plant facility or licensed premises unless that machinery purchased to replace existing machinery:
   a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
   b. Performs different functions;
   c. Is used to manufacture a different product; or
   d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.

(b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;

(23) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;

(24) "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell tangible personal property, digital property, or services, or lease tangible personal property or digital property, such as a catalog, Internet website, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;

(25) (a) "Marketplace provider" means a person, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:

1. The person directly or indirectly:

a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;

b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;

c. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;

d. Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;

e. Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;

f. Provides or offers fulfillment or storage services for a marketplace retailer;

g. Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;

h. Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or

i. Brands or otherwise identifies sales as those of the marketplace provider; and

2. The person directly or indirectly:

a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;

b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;

c. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or

d. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.

(b) "Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store;

(26) "Marketplace retailer" means a seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider;

(27) (a) "Occasional sale" includes:

1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or

2. Any transfer of all or substantially all the tangible personal property or

digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

(b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;

(28) (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.

(b) "Other direct mail" includes but is not limited to:

1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.

(c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;

(29) "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(30) "Permanent," as the term applies to digital property, means perpetual or for an

indefinite or unspecified length of time;

(31) (a) "Photography and photofinishing services" means:

1. The taking, developing, or printing of an original photograph; or
2. Image editing, including shadow removal, tone adjustments, vertical and horizontal alignment and cropping, composite image creation, formatting, watermarking printing, and delivery of an original photograph in the form of tangible personal property, digital property, or other media.

(b) "Photography and photofinishing services" does not include photography services necessary for medical or dental health;

(32) "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;

(33) (a) "Prewritten computer software" means:

1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;
2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser,

unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.

(b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.

(c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;

(34) "Prewritten computer software access services" means the right of access to prewritten computer software where the object of the transaction is to use the prewritten computer software while possession of the prewritten computer software is maintained by the seller or a third party, wherever located, regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis;

(35) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:

1. Tangible personal property;
2. An extended warranty service;
3. Digital property transferred electronically; or
4. Services included in KRS 139.200;

for a consideration.

(b) "Purchase" includes:

1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who

furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and

3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;

(36) "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;

(37) "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;

(38) "Remote retailer" means a retailer with no physical presence in this state;

(39) (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.

(b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;

(40) (a) "Retailer" means:

1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services in a retail sale included in KRS 139.200;

2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in

paragraph (c) of this subsection;

3. Every person making more than two (2) retail sales of tangible personal property, digital property, or services included in KRS 139.200 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.

(b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property, digital property, or services sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.

(c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:

a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;

b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and

c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.

2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.

3. For purposes of this paragraph, "qualifying entity" means a resident:

a. Church;

b. School;

c. Civic club; or

d. Any other nonprofit charitable, religious, or educational organization;

(41) "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;

(42) (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;

(43) (a) "Sale" means:

1. The furnishing of any services included in KRS 139.200;

2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:

a. Tangible personal property; or

b. Digital property transferred electronically;

for a consideration.

(b) "Sale" includes but is not limited to:

1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for

purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;

2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and

3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.

(c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;

(44) "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;

(45) (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property, digital property, or prewritten computer software access services purchased from a retailer.

(b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;

(46) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to

the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;

(47) "Taxpayer" means any person liable for tax under this chapter;

(48) "Telemarketing services" means services provided via telephone, facsimile, electronic mail, text messages, or other modes of communications to another person, which are unsolicited by that person, for the purposes of:

(a) 1. Promoting products or services;

2. Taking orders; or

3. Providing information or assistance regarding the products or services; or

(b) Soliciting contributions;

(49) "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and

(50) (a) "Use" includes the exercise of:

1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property or tangible personal property where the right of access is granted; or

2. Any right or power to benefit from any services subject to tax under KRS 139.200(2)(p) to ***(av)***[~~(ax)~~].

(b) "Use" does not include the keeping, retaining, or exercising any right or power over:

1. Tangible personal property or digital property for the purpose of:

a. Selling tangible personal property or digital property in the regular course of business; or

b. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state; or

2. Prewritten computer software access services purchased for use outside the state and transferred electronically outside the state for use thereafter solely outside the state.

➔Section 4. KRS 139.202 is amended to read as follows:

Excluded from the additional taxable services imposed by KRS 139.200(2)(q) to ***(av)***[~~(ax)~~] are gross receipts derived from:

(1) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed price sales contract executed on or before February 25, 2022; and

(2) A lease or rental agreement entered into on or before February 25, 2022.

➔Section 5. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

(1) (a) Except as provided in paragraph (b) of this subsection, tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:

1. Purchased for resale according to the provisions of KRS 139.270;

2. Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or

3. Purchased according to administrative regulations promulgated by the department governing a direct pay authorization; or

(b) Tangible personal property to a purchaser claiming an agriculture exemption under KRS 139.480(4) to (9), (11), (13) to (15), (23) to (30), or (33) unless the person obtains from the purchaser an agriculture exemption license number or a fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption that contains an agriculture exemption license number in accordance with KRS 139.270;

(2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and

(3) A service included in KRS 139.200(2)(g) to ***(av)***~~[(ax)]~~ unless the person takes from the purchaser a certificate to the effect that the service is:

(a) Purchased for resale according to KRS 139.270;

(b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or

(c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.

➔Section 6. KRS 139.310 is amended to read as follows:

(1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, digital property, and services listed under KRS 139.200(2)(p) to ***(av)***~~[(ax)]~~ purchased for storage, use, or other consumption in this state at the rate of six percent (6%) of the sales price.

(2) The excise tax applies to the purchase of digital property regardless of whether:

(a) The purchaser has the right to permanently use the goods;

(b) The purchaser's right to access or retain the digital property is not permanent; or

(c) The purchaser's right of use is conditioned upon continued payment.

➔Section 7. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.

(2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;

(b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, digital property, or any services subject to tax under KRS

139.200(2)(p) to ***(av)***~~[(ax)]~~. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;

(c) Any retailer soliciting orders for tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ***(av)***~~[(ax)]~~ from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;

(d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;

(e) Any retailer soliciting orders for tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ***(av)***~~[(ax)]~~ from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;

(f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; or

(g) 1. Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state, including retail sales facilitated by a marketplace provider on behalf of the remote retailer, if:

a. The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or

b. The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars ($100,000).

2. Any remote retailer that meets either threshold provided in subparagraph 1. of this paragraph shall register for a sales and use tax permit and collect the tax imposed by KRS 139.310 from the purchaser no later than the first day of the calendar month that is at the most sixty (60) days after either threshold is reached.

➔Section 8. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;

(4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents ($0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky

residents for use in heating, water heating, cooking, lighting, and other residential uses if the sewer services, water, and fuel are purchased and declared by the resident as used in his or her place of domicile.

(b) As used in this subsection:

1. "Fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood; and

2. "Place of domicile" means the place where an individual has his or her legal, true, fixed, and permanent home and principal establishment, and to which, whenever the individual is absent, the individual has the intention of returning.

(c) Determinations of eligibility for the exemption shall be made by the department.

(d) The exemption shall apply to charges for sewer service, water, and fuel billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park if the owner or operator declares that the sewer services, water, and fuel are purchased for Kentucky residents to be used in the resident's place of domicile.

(e) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years if the sewer services, water, and fuel are purchased for and declared by the Kentucky resident as used in his or her place of domicile;

(8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the

retailer maintains a file of the proof;

(9) (a) Gross receipts derived from the sale of tangible personal property, as provided in paragraph (b) of this subsection, to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of:

1. Tangible personal property at a plant facility;
2. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
3. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;

and which will be for sale.

(b) The following tangible personal property shall qualify for exemption under this subsection:

1. Materials which enter into and become an ingredient or component part of the manufactured product;
2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically, these items are categorized as follows:
   a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
   b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts,

dyes, refrigerants, and explosives. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and

3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(c) The property described in paragraph (b) of this subsection shall be regarded as having been purchased for resale.

(d) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(e) The exemption provided in this subsection does not include repair, replacement, or spare parts;

(10) Any water use fee paid or passed through to the Kentucky River Authority by

facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

(11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.

(a) As used in this subsection:

1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and

2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(12) Gross receipts from the sale of water used in the raising of equine as a business;

(13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

(b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;

(14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;

(15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;

(16) Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;

(17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(18) The amount of any tax imposed by the United States upon or with respect to retail

sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;

(19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:

(a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

(b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:

1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or

2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;

(20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);

(21) Gross receipts from the collection of:

(a) Any fee or charge levied by a local government pursuant to KRS 65.760;

(b) The charge imposed by KRS 65.7629(3);

(c) The fee imposed by KRS 65.7634; and

(d) The service charge imposed by KRS 65.7636;

(22) Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process of:

(a) Tangible personal property at a plant facility;

(b) Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030; or

(c) Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040;

that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;

(23) (a) For persons selling services included in KRS 139.200(2)(g) to ***(av)***[~~(ax)~~] prior to January 1, 2025, gross receipts derived from the sale of those services if the gross receipts were less than twelve thousand dollars ($12,000) during calendar year 2024. When gross receipts from these services exceed twelve thousand dollars ($12,000) in a calendar year:

1. All gross receipts over twelve thousand dollars ($12,000) are taxable in that calendar year; and
2. All gross receipts are subject to tax in subsequent calendar years.

(b) The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f); and

(24) (a) For persons that first begin making sales of services included in KRS 139.200(2)(g) to ***(av)***[~~(ax)~~] on or after January 1, 2025, gross receipts derived from the sale of those services if the gross receipts are less than twelve thousand dollars ($12,000) within the first calendar year of operation. When gross receipts from these services exceed twelve thousand dollars ($12,000) in a calendar year:

1. All gross receipts over twelve thousand dollars ($12,000) are taxable in that calendar year; and
2. All gross receipts are subject to tax in subsequent calendar years.

(b) The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f).

➔Section 9. This Act takes effect July 1, 2025.